

ESTTA Tracking number: **ESTTA640039**

Filing date: **11/19/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	nLight Photonics Corporation
Granted to Date of previous extension	11/19/2014
Address	5408 NE 88th Street, Building E Vancouver, WA 98665 UNITED STATES
Attorney information	Ethan A. McGrath 5408 NE 88th Street, Building E Vancouver, WA 98665 UNITED STATES ethan.mcgrath@nlight.net

### Applicant Information

Application No	79135819	Publication date	07/22/2014
Opposition Filing Date	11/19/2014	Opposition Period Ends	11/19/2014
International Registration No.	1174723	International Registration Date	08/07/2013
Applicant	XI'AN FOCUSLIGHT TECHNOLOGIES CO., LTD. F3, Building 10, Guangjisuo 710119 Shaanxi, CHINA		

### Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Lasers, not for medical purposes
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4015448	Application Date	01/13/2011
Registration Date	08/23/2011	Foreign Priority Date	NONE
Word Mark	NLIGHT		

Design Mark	<h1>NLIGHT</h1>
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2000/07/27 First Use In Commerce: 2000/08/31 Optical components, namely, lasers and related devices, namely, laser diodes, laser diode modules, laser diode assemblies, fiber-coupled laser diode modules, fiber, and fiber amplifiers, to generate,maintain, route or amplify signals for transmission from point to point via optical fibers or waveguides, not for medical use</p> <p>Class 010. First use: First Use: 2000/07/27 First Use In Commerce: 2000/08/31 Lasers for materials processing for medical use</p>

U.S. Registration No.	4015450	Application Date	01/13/2011
Registration Date	08/23/2011	Foreign Priority Date	NONE
Word Mark	NLIGHT PHOTONICS		
Design Mark	<h1>NLIGHT PHOTONICS</h1>		
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2000/07/27 First Use In Commerce: 2000/08/31 Optical components, namely, lasers and related devices, namely, laser diodes, laser diode modules, laser diode assemblies, fiber-coupled laser diode modules, fiber, and fiber amplifiers, to generate,maintain, route or amplify signals for transmission from point to point via optical fibers or waveguides, not for medical use</p> <p>Class 010. First use: First Use: 2000/07/27 First Use In Commerce: 2000/08/31 Lasers for materials processing for medical use</p>		

Attachments	85216920#TMSN.png( bytes ) 85216972#TMSN.png( bytes ) Opposition-DLIGHT.pdf(72916 bytes )
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## **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ethan A. McGrath/
Name	Ethan A. McGrath
Date	11/19/2014

nLight Photonics Corporation,	)	<b>NOTICE OF OPPOSITION</b>
a Delaware corporation,	)	
	)	Application Serial No. 79135819
Opposer,	)	
	)	Published for Opposition on
v.	)	July 22, 2014
	)	
Xi'an Focuslight Technologies Co., Ltd.	)	
a Chinese corporation	)	
	)	
Applicant.	)	
	)	
	)	

Mark:	DLIGHT
Serial No.:	79135819
International Class:	9
Goods:	Lasers, not for medical purposes
Filed:	August 7, 2013
Published:	July 22, 2014

As grounds for opposition, Opposer alleges that:

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continues to use, NLIGHT and NLIGHT PHOTONICS on and in connection with a variety of goods.

3. Opposer owns the following United States registrations for the marks NLIGHT and NLIGHT PHOTONICS, with a first use date at least as early as August 31, 2000:

**Registration No. 4015448** filed January 13, 2011 and registered August 23, 2011 for “Optical components, namely, lasers and related devices, namely, laser diodes, laser diode modules, laser diode assemblies, fiber-coupled laser diode modules, fiber, and fiber amplifiers, to generate, maintain, route or amplify signals for transmission from point to point via optical fibers or waveguides, not for medical use” in International Class 9 and for “Lasers for materials processing for medical use” in International Class 10

**Registration No. 4015450** filed January 13, 2011 and registered August 23, 2011 for “Optical components, namely, lasers and related devices, namely, laser diodes, laser diode modules, laser diode assemblies, fiber-coupled laser diode modules, fiber, and fiber amplifiers, to generate, maintain, route or amplify signals for transmission from point to point via optical fibers or waveguides, not for medical use” in International Class 9 and for “Lasers for materials processing for medical use” in International Class 10

4. Opposer has long offered and sold its services under its NLIGHT and NLIGHT PHOTONICS marks in interstate commerce in the United States.

5. Opposer’s use of NLIGHT and NLIGHT PHOTONICS has been valid and continuous since the date of first use and Opposer has not abandoned the NLIGHT and NLIGHT PHOTONICS marks.

6. Opposer’s NLIGHT and NLIGHT PHOTONICS marks are symbolic of the extensive goodwill and customer recognition built up by Opposer through substantial amounts of time, money, and effort in advertising and promotion and by virtue of the excellence of its goods.

7. Opposer is informed and believes, and therefore alleges, that Applicant Xi’an Focuslight Technologies Co., Ltd. (the “Applicant”) is a Chinese corporation with an address at F3, Building 10, Guangjisuo, No. 17, Xinxu Road, New Industrial Park, Xi’an High-Tech Zone, Xi’an, 710119 Shaanxi.

8. Opposer is informed and believes, and therefore alleges, that Applicant filed a 66A application on August 7, 2013 to register DLIGHT as a trademark.

9. Applicant's application to register DLIGHT as a trademark covers "Lasers, not for medical purposes" in International Class 9.

10. Opposer is informed and believes, and therefore alleges, that Applicant made no use of the DLIGHT mark before Opposer adopted and commenced use of its NLIGHT and NLIGHT PHOTONICS marks.

11. Opposer is informed and believes, and therefore alleges, that Applicant made no use of the DLIGHT mark in interstate commerce before 2013.

12. Opposer's application date for Registration Nos. 4015448 and 4015450 and Opposer's actual dates of first use and first in commerce precede Applicant's filing date.

13. Applicant's DLIGHT mark is highly similar to Opposer's NLIGHT and NLIGHT PHOTONICS marks.

14. Applicant seeks to register the DLIGHT mark in connection with goods that are highly similar to Opposer's goods sold under its NLIGHT and NLIGHT PHOTONICS marks.

15. In view of the highly similar marks and the highly similar goods of the parties, Applicant's mark so resembles Opposer's marks as to be likely to cause confusion, to cause mistake, or to deceive.

16. Opposer's NLIGHT and NLIGHT PHOTONICS marks are well-known and distinctive trademarks. Opposer's NLIGHT and NLIGHT PHOTONICS marks were well-known and distinctive before Applicant filed its application for registration of the DLIGHT mark.

17. Applicant's commercial use of the mark DLIGHT will cause dilution of the distinctive quality of Opposer's NLIGHT and NLIGHT PHOTONICS marks.

18. If Applicant is permitted to register DLIGHT for the goods and services described in the application, confusion in the trade and in the public is likely to result. Confusion caused by Applicant will damage Opposer and injure its reputation in the trade and with the public. That confusion will also injure the public, in that consumers,

upon seeing Applicant's mark used in connection with Applicant's goods, are likely to believe that Applicant's goods are somehow associated with or approved by Opposer.

WHEREFORE, Opposer prays that Application Serial No. 79135819 be rejected, that no registration be issued to Applicant, and that this opposition be sustained in favor of Opposer.

Please address all communications regarding this Notice of Opposition to:

Ethan A. McGrath  
5408 NE 88<sup>th</sup> Street, Building E  
Vancouver, WA 98665  
(773)-965-4637  
ethan.mcgrath@nlight.net

Dated: November 19, 2014

Submitted respectfully,

/Ethan A. McGrath/  
Ethan A. McGrath  
Attorney for Opposer  
nLIGHT Photonics Corporation

# CERTIFICATE OF SERVICE

This is to certify that the foregoing NOTICE OF OPPOSITION was served on the person listed below, by placing the document described above in an envelope in the first class mail, postage pre-paid, addressed as follows:

Tony Tune, Esq.  
10685-B Hazelhurst Drive, # 6254  
Houston, Texas 77043-3238

Dated: November 19, 2014

/Ethan A. McGrath/  
Ethan A. McGrath